

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED DEC 30 2002

ROMEO COSCIA

Plaintiff,

v.

SALVATORE CAPONE

Defendant.

CIVIL ACTION

NO. 02-3655 (JRP)

PLAINTIFF'S REPLY MEMORANDUM

Plaintiff, Romeo Coscia, through counsel, respectfully submits this Memorandum in reply to the Defendant's Answer to Plaintiff's Motion for Extension of Discovery along with its supporting Memorandum of Law.

Defendant erroneously alleges that:

- Italian counsel's letter dated December 5, 2002 "states that uncertified copies of documents in question have already been obtained and have been forwarded to him [plaintiff]." See paragraph 2 of Answer.<sup>1</sup>
- Italian counsel's letter "transmits uncertified copies of the documents in question, so plaintiff knows that they contain, but has deliberately withheld this information." See paragraph 5 of Answer.

Plaintiff has not received any copies of Italian bank records, certified or uncertified.

Italian counsel's letter is referring to uncertified copies of the petition by Italian counsel to the

<sup>1</sup> A December 5, 2002 letter by Luciano Trofa, an Italian attorney ("Italian counsel") along with a document addressed to the Federal Public Prosecutor for the Court of Avellino prepared by Mr. Trofa was translated by Inlingua. The December 5, 2002 Trofa letter is addressed to Plaintiff, Romeo Coscia. According to the translation, the letter states "uncertified copies of which I have enclosed for you."

Public Prosecutor in Avellino. See attached copy of the letter dated December 30, 2002 from A. Alexander of Inlingua along with the original complete revised translation and Affidavit dated December 30, 2002 by A. Alexander.<sup>2</sup>

Plaintiff respectfully requests that this Court grant his Motion and enter his proposed Order

Respectfully submitted,

**EIZEN FINEBURG & McCARTHY, P.C.**

Date: December 30, 2002

By: 

GARY J. McCARTHY, ESQUIRE  
JOHN N. SALLA, ESQUIRE  
JOSEPH M. ARMSTRONG, ESQUIRE  
*Attorneys for Plaintiff, Romeo Coscia*

Two Commerce Square  
2001 Market Street, Suite 3410  
Philadelphia, PA 19103  
Tel: (215) 751-9666 Fax: (215) 751-9310

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<sup>2</sup> Page 2 of the document (petition) addressed by Italian counsel to the Federal Public Prosecutor for the Court of Avellino was cut off from the original fax of the Trofa documents to our office and subsequently sent to the Inlingua for translation.

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**ROMEO COSCIA**

Plaintiff,

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**SALVATORE CAPONE**

Defendant.

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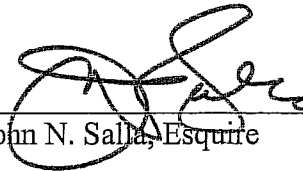
CIVIL ACTION

NO. 02-3655 (JRP)

**CERTIFICATE OF SERVICE**

I, John N. Salla, Esquire, hereby certify that on the date set forth below, I served on defense counsel via First Class Mail and fax a true and correct copy of the foregoing Reply Memorandum.

Date: December 30, 2002

  
\_\_\_\_\_  
John N. Salla, Esquire



John N Salla Esq.  
Law Offices of Eizen Fineburg & McCarthy  
Two Commerce Square, Ste 3410  
2001 Market Street  
Philadelphia, PA 19103

December 30, 2002

**Re: The English Translation of a December 5, 2002 Letter by Luciano Trofa, Esq.**

Dear Mr. Salla:

In order to answer your question about the phrase "uncertified copies of which I have enclosed for you" in the first paragraph of page one of the English translation, we conducted a careful review of the text.

Our conclusion is that the ambiguity of the original Italian phrase in the letter brought the question about the English translation, "uncertified copies of which I have enclosed for you. Your assumption is that the English sentence refers to bank statement, but the original Italian phrase does not clearly states what it refers to. After the second review of the sentence, we assume that the word "copy" refers to the Italian word "istanza" which is the petition from the Attorney Luciano Trofa to the public prosecutor in Avellino. It is a copy of the petition for information and documentation which is in fact enclosed and which has been translated.

In this sense, the final sentence of page one, paragraph one in the English translation could also be interpreted as follows:

**An informal copy of which is enclosed.**

We hope that we have answered your question clearly, and are committed to provide you with high quality assured translation.

Very truly yours,

A handwritten signature in cursive script that reads 'Aiko U. Alexander'.

Aiko U. Alexander  
Project Manager, inlingua

230 South Broad Street, Seventh Floor, Philadelphia, PA Tel 215.735.7646 Fax 215.735.4188  
www.inlingua.com

One Powder Mill Square  
Pennyfeather Building, Suite 200-A  
3828 Kennett Pike, Greenville, DE 19807  
Tel 302.656.4415 Fax 302.656.7677

P.O. Box 813  
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P.O. Box 781  
Hunt Valley, MD 21030  
Tel 410.329.1195 Fax 410.329.1526

2030 Tilghman Street, Suite 105A  
Allentown, PA 18104  
Tel 610.770.6170 Fax 610.770.6171



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF PHILADELPHIA

THIS IS TO CERTIFY THAT THE REVISED ENGLISH DOCUMENT ATTACHED IS  
A TRUE AND ACCURATE TRANSLATION OF THE ITALIAN LETTER FROM  
TROFA LAW OFFICES TO MR. ROMEO COSCIA:

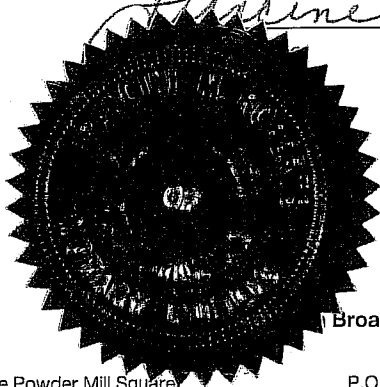
TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Aisha Alexander*

inlingua – Intercultural Communication Solutions Group

Sworn and subscribed to before me on this Monday, December 30, 2002.

*Francine M. Roberts*



Notarial Seal  
Francine M. Roberts, Notary Public  
Philadelphia, Philadelphia County  
My Commission Expires Nov. 8, 2003  
Member, Pennsylvania Association of Notaries

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**Studio Legale TROFA**

*[TROFA Law Offices]*

*A Professional Association*

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Italy

Tel. - Fax +39 082537930

*Francesco Trofa, Attorney at Law*

Admitted to Practice before the Court of Cassation

*Luciano Trofa, Attorney at Law*

*Gararda Russo, Attorney at Law*

*Lucio di Milio, Attorney at Law*

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Avellino, December 5, 2002

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To:

Mr. ROMEO COSCIA

1464 Hark-A-Way Rd.

Chester Spring, PA

U.S.A.

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Dear Romeo:

I have prepared the petition to the Court of Avellino to obtain from the Federal Public Prosecutor the authorization to acquire certified copies of bank statements recording the movements in the checking accounts with the Banca Popolare dell'Irpinia - Avellino Branch Office - and with the Banca Cooperativa - Volturara Branch Office - uncertified copies of which I have enclosed for you.

It will take at least 3-4 months to obtain the authorization from the Italian Judge, considering the approach of the Christmas season.

Therefore, I would like to take this opportunity to inform you and the judge in the US of the time it will take to acquire these documents. For my part, as you will read in the petition itself, I have requested that the matter be handled with the maximum urgency. I will let you know if the Judge issues a positive ruling in advance.

Best regards,

*Luciano Trofa,*

*Attorney at Law*

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**LAW OFFICES OF**  
**Luciano Trofa, Attorney At Law**  
Via Scandone 16/b - Avellino

Tel. 0825/37930 – Cell 335/8383078

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To the Federal Public Prosecutor for the Court of Avellino

The undersigned Luciano Trofa - special attorney for Romeo Coscia, born in Montella (AV) on September 4, 1957 and residing at 1464 Hark-A-Way Rd., Chester Springs, PA 19425, USA, on the basis of a power of attorney dated November 20, 2002, and recorded by Notary Albert J. Fiorini in Wyomissing, Berks County, Pennsylvania, USA - having his official address for service at Via Gramsci No. 10 in Avellino, Italy.

*whereas*

Romeo Coscia has lived and worked in the United States for several years;

On June 12, 2002, said petitioner filed Civil Action (No. 02.3655) before the United States District Court for the District of Pennsylvania against Salvatore Capone, residing at 38 Laura Lane, Pittsgrove, NJ, U.S.A., the purpose of which was to claim repayment of a loan in the amount of USD 140,000 which was made in February 1999 and was deposited by Salvatore Capone in a bank checking account with the Banca di Credito Cooperativa Irpina in Volturara (AV);

The same Romeo Coscia intends to file another civil action against the above named Salvatore Capone and his brother Giuseppe Capone, born January 14, 1954, and residing at via Don Minzioni No. 60 in Montella (AV), to obtain repayment of the amount of € 103,291.38 (£200,000,000), which amount was loaned by Mr. Coscia to Salvatore Capone, and was deposited by Salvatore Capone in a personal checking account of the Banca Popolare dell'Irpinia, Avellino branch, in the name of Mr. Giuseppe Capone;

Mr. Romeo Coscia was unjustly accused by Mr. Giuseppe Capone and by Mr. Salvatore Capone of having withdrawn the aforementioned amounts; such amounts were instead deposited in the abovementioned current accounts, which are in the names of Messrs. Giuseppe and Salvatore Capone - with funds available to them - proof of which we are seeking to provide;

Said Romeo Coscia, as a result of the accusations made against him by the Capone brothers, is facing a harsh sentence in an American court of criminal justice and for this reason is in very

urgent need of providing evidence proving his innocence which only documentation on the banking activity indicated above can ensure.

Given the above,

*he requests*

That you authorize the undersigned to obtain:

- 1) From the Banca Popolare dell'Irpinia - Avellino branch – all information and documentation regarding banking activity which has taken place since the month of February 1999, in the name of Mr. Giuseppe Capone and/or Salvatore Capone, with particular attention to a deposit of £200,000,000.
- 2) From the Banca di Credito Cooperativo Irpina di Volturara, headquartered at Piazza Roma no. 8 in Volturara (Avellino), all information and documentation regarding banking activity which has taken place since the month of February 1999 in the name of Mr. Salvatore Capone, with particular attention to a deposit of \$140,000.

Respectfully submitted,

*Luciano Trofa, Attorney at Law*

The following documents are attached for filing:

- Special Power of Attorney dated November 20, 2002, recorded by Notary Albert J. Fiorini, Wyomissing, Berks County, Pennsylvania, United States of America, legalized by C. Michael Weaver, Secretary of State of Pennsylvania (U.S.A.);
- Copy of Civil Action (No. 02.3655) filed with the United States District Court for the District of Pennsylvania, against Salvatore Capone;

Avellino, December 5, 2002

*Luciano Trofa, Attorney at Law*



**Studio Legale TROFA****Associazione tra Professionisti**

Via Scandone 16/b - 83100 AVELLINO

Tel. - Fax +39 082537930

**Avv. Francesco Trofa**

Patrocinante in Cassazione

**Avv. Luciano Trofa****Avv. Gerarda Russo****Avv. Lucio Di Milia**

Avellino 05.12.2002

Egr. Sig.

**COSCIA ROMEO**

1444 Hark-A-Way Rd.

Chester Spring - PA - U.S.A.

Caro Romeo,

ho preparato l'istanza al Tribunale di Avellino per ottenere, dal Procuratore della Repubblica, l'autorizzazione ad acquisire certificati attestanti i movimenti sui conti correnti della Banca Popolare dell'Irpinia - sede di Avellino - e della Banca Cooperativa - sede di Volturara - di cui ti allego copia informale.

Per ottenere l'autorizzazione dal Giudice Italiano, ci vorranno almeno 3 - 4 mesi, considerato che andiamo incontro al periodo festivo del Natale.

Per tale ragione, vorrei far presente al tuo avvocato ed al Giudice in America i tempi previsti. Da parte mia, come potrai leggere nella stessa istanza, ho richiesto la massima urgenza. Ne deriva che se il Giudice emetterà un provvedimento positivo in anticipo sarà mia cura farti lo sapere.

Cordiali saluti

**Avv. Luciano Trofa**

(74)

**STUDIO LEGALE**

Avv. Luciano Trofa  
Via Scandone 18/b - Avellino  
Tel. 0825/77930 - cell. 335/813078

**Ill.mo Procuratore della Repubblica presso il Tribunale di Avellino**

Il sottoscritto Avv. Luciano Trofa - procuratore speciale del sig. Romeo Coscia, nato a Montella (AV) il 4.9.1957 e residente al n. 1464 Hark-A-Way Rd., Chester Springs, PA, 19425, U.S.A., giurata ante del 20.11.2002 per Notar Albert J. Fiorini della città Wyomissing, Contea di Berks, Stato di Pennsylvania, Stati Uniti d'America - eletto dom.to in Avellino, alla via Gramsci n.10,

**premesso**

che il sig. Romeo Coscia da diversi anni risiede e lavora negli Stati Uniti d'America;

che esso istante ha proposto, in data 12 giugno 2002, davanti la Corte distrettuale degli Stati Uniti, per il distretto della Pennsylvania, azione civile (n.02.3655) nei confronti del sig. Salvatore Capone residente in Pittsgrove, NJ - 38 Laura Lane - U.S.A. - avente ad oggetto la rivendicazione per il rimborso di un prestito in denaro di \$ 140.000 avvenuto nel febbraio 1999 e depositato, dal sig. Capone Salvatore, su di un c/c bancario della Banca di Credito Cooperativo Irpina di Volturara (AV);

che, sempre esso Coscia Romeo, intende intraprendere altra azione civile nei confronti del suddetto sig. Capone Salvatore e del fratello Capone Giuseppe, nato il 14/01/1954 e residente in Montella (AV), alla via Don Minzioni n.60, per ottenere la restituzione dell'importo di € 103.291,38 (€ 200.000.000) in quanto tale somma venne prestata dal Coscia al sig. Capone Salvatore e lo stesso ebbe a versarla su di un c/c

Page 2 needs to be translated

bancario della Banca Popolare dell'Irpinia, filiale di Avellino, intestato al sig. Capone Giuseppe;

che il sig. Coscia Romeo è stato ingiustamente accusato dal sig. Capone Giuseppe e dal sig. Capone Salvatore di aver sottratto i predetti importi quando, invece, tali somme sono state versate sui predetti conti correnti, di cui si vuol fornire la prova, intestati e nella disponibilità dei signori Capone Giuseppe e Salvatore;

che esso istante, Coscia Romeo, a seguito delle accuse rivoltegli dai fratelli Capone rischia una dura condanna, in sede penale, davanti la Giustizia Americana e, per tale ragione, ha la massima urgenza di fornire prove a suo discarico che, solo con le attestazioni dei movimenti bancari innanzi indicati, potrà ottenere.

Tanto premesso,

#### **Chiede**

alla S.V. Ill.ma di Voler autorizzare il sottoscritto ad acquisire:

- 1) dalla Banca Popolare dell'Irpinia - filiale di Avellino - tutte le informazioni e certificazioni riguardanti i movimenti bancari avvenuti dal mese di febbraio 1999, a nome del sig. Capone Giuseppe e/o Capone Salvatore, in particolare con riguardo al versamento di L. 200.000.000;
- 2) dalla Banca di Credito Cooperativo Irpina di Volturara, con sede in Volturara (AV), alla Piazza Roma n.8, tutte le informazioni e certificazioni riguardanti i movimenti bancari avvenuti dal mese di febbraio 1999, a nome del sig. Capone Salvatore, in particolare con riguardo al versamento di \$ 140.000.

particolare con riguardo al versamento di \$ 140.000.

Con perfetta Osservanza

*Avv. Luciano Trofa*

Si allegano e si depositano:

- procura speciale del 20.11.2002 per Notaio Albert J. Fiorini della città Wyomissing, Contea di Berks, Stato di Pennsylvania, Stati Uniti d'America, legalizzata da C. Michael Weaver -- Segretario dello Stato di Pennsylvania (U.S.A.);
- Copia azione civile (n.02.3655) proposta davanti la Corte distrettuale degli Stati Uniti, per il distretto della Pennsylvania, nei confronti del sig. Salvatore Capone;

Avellino, li 5 dicembre 2002

*Avv. Luciano TROFA.*

(8)